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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

WAYMO LLC,

Plaintiff,

vs.

UBER TECHNOLOGIES, INC.;
OTTOMOTTO LLC; OTTO TRUCKING
LLC,

Defendants.

CASE NO. 3:17-cv-00939-WHA

**PLAINTIFF WAYMO LLC'S
ADMINISTRATIVE MOTION TO FILE
UNDER SEAL ITS SUPPLEMENTAL
BRIEF IN SUPPORT OF ITS MOTION
FOR ORDER TO SHOW CAUSE WHY
DEFENDANTS SHOULD NOT BE HELD
IN CONTEMPT OF THE PRELIMINARY
INJUNCTION ORDER (Dkt. 426) AND
EXPEDITED DISCOVERY ORDER (Dkt.
61)**

Pursuant to Civil L.R. 7-11 and 79-5, Plaintiff Waymo LLC (“Waymo”) respectfully requests to file under seal information in its Supplemental Brief in Support of its Motion for Order to Show Cause, filed concurrently herewith. Specifically, Waymo requests an order granting leave to file under seal the portions of the documents as listed below:

| Document | Portions to Be Filed Under Seal | Designating Party |
|---|---------------------------------|--|
| Waymo’s Supplemental Brief in Support of its Motion for Order to Show Cause (“Waymo’s Brief”) | Highlighted in blue | Defendants |
| | Highlighted in yellow | Anthony Levandowski |
| Exhibit 1 to Waymo’s Brief | Entire document | Anthony Levandowski |
| Exhibit 2 to Waymo’s Brief | Entire document | Defendants |
| Exhibit 3 to Waymo’s Brief | Entire document | Defendants |
| Exhibit 4 to Waymo’s Brief | Highlighted in orange | Anthony Levandowski; other third-parties |
| | Highlighted in red | Waymo |
| Exhibit 5 to Waymo’s Brief | Entire document | Defendants |
| Exhibit 6 to Waymo’s Brief | Entire document | Defendants; other third-parties |
| Exhibit 7 to Waymo’s Brief | Entire document | Other third-parties |
| Exhibit 8 to Waymo’s Brief | Entire document | Anthony Levandowski; other third-parties |
| Exhibit 9 to Waymo’s Brief | Highlighted in yellow | Defendants |
| Exhibit 10 to Waymo’s Brief | Entire document | Other third-parties |
| Exhibit 11 to Waymo’s Brief | Entire document | Other third-parties |
| Exhibit 12 to Waymo’s Brief | Entire document | Other third-parties |
| Exhibit 13 to Waymo’s Brief | Entire document | Defendants |
| Exhibit 14 to Waymo’s Brief | Entire document | Defendants |
| Exhibit 15 to Waymo’s Brief | Entire document | Defendants |
| Exhibit 16 to Waymo’s Brief | Entire document | Defendants |
| Exhibit 17 to Waymo’s Brief | Entire document | Defendants |
| Exhibit 18 to Waymo’s Brief | Entire document | Defendants |
| Exhibit 19 to Waymo’s Brief | Highlighted in red | Waymo |
| Exhibit 24 to Waymo’s Brief | Entire document | Defendants |
| Exhibit 25 to Waymo’s Brief | Entire document | Defendants |
| Proposed Jury Instruction | Highlighted in yellow | Anthony Levandowski |

I. LEGAL STANDARD

Civil Local Rule 79-5 requires that a party seeking sealing “establish[] that the document, or portions thereof, are privileged, protectable as a trade secret or otherwise entitled to protection under the law” (*i.e.*, is “sealable”). Civil L.R. 79-5(b). The sealing request must also “be narrowly tailored to seek sealing only of sealable material.” *Id.*

1 **II. DEFENDANTS AND/OR ANTHONY LEVANDOWSKI'S AND/OR OTHER**
 2 **THIRD-PARTIES CONFIDENTIAL INFORMATION**

3 Waymo seeks to seal these documents only because Defendants and/or non-party Anthony
 4 Levandowski and or other third-parties have designated the information confidential and/or highly
 5 confidential. Declaration of Lindsay Cooper ("Cooper Decl.") ¶ 3. Waymo takes no position on the
 6 merits of sealing the designated material, and expects Defendants and/or Mr. Levandowski and/or
 7 other third-parties to file one or more declarations in accordance with the Local Rules.

8 **III. THE COURT SHOULD SEAL WAYMO'S CONFIDENTIAL INFORMATION**

9 The Court should seal the portions of Exhibits 4 and 19 (highlighted in red) identified by
 10 Waymo in the table above. Waymo seeks to file this information under seal because it discloses
 11 technical information regarding Waymo's trade secrets. *See* Cooper Dec., ¶ 4. Courts have
 12 determined that trade secret information merits sealing. *Music Grp. Macao Commercial Offshore Ltd.*
 13 *v. Foote*, No. 14-cv-03078-JSC, 2015 WL 3993147, at *1 (N.D. Cal. June 30, 2015) (quoting
 14 *Kamakana*, 447 F.3d at 1179); *see also Brocade Commc's Sys., Inc. v. A10 Networks, Inc.*, No. C 10-
 15 3428 PSG, 2013 WL 211115, at *1, *3 (N.D. Cal. Jan. 17, 2013) (granting request to seal document
 16 that "consists entirely of descriptions of Brocade's trade secrets."). Waymo seeks to seal trade secret
 17 information that fit squarely within these categories. Cooper Dec. ¶ 4. Waymo maintains this
 18 information as a trade secret (*see* Dkt. 25-31) and ensures the information remains secret with strict
 19 secrecy and security protocols (*see* Dkt. 25-47; Dkt. 25-49.). *Id.* Waymo has narrowly tailored its
 20 requests to only information meriting sealing. *Id.* In fact, both *Music Grp.* and *Brocade* found the
 21 confidential information at issue in those cases met the heightened "compelling reasons" standard for
 22 sealing. *Music Grp.*, 2015 WL 3993147, at *1; *Brocade*, 2013 WL 211115, at *1, *3. The
 23 information that Waymo seeks to seal, therefore, also meets this heightened standard. The disclosure
 24 of Waymo's trade secrets would harm Waymo. Cooper Dec. ¶ 4. Moreover, the scope of information
 25 that Waymo is seeking to seal is consistent with other administrative motions to seal that have already
 26 been granted by the Court in this case. (*See* Dkt. 681.) Thus, the Court should grant Waymo's
 27 administrative motion to seal.

1 **IV. CONCLUSION**

2 In compliance with Civil Local Rule 79-5(d), redacted and unredacted versions of the
3 above listed documents accompany this Administrative Motion. For the foregoing reasons,
4 Waymo respectfully requests that the Court grant Waymo's Administrative Motion.

5 DATED: September 10, 2017

QUINN EMANUEL URQUHART & SULLIVAN,
LLP

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7 By /s/ Charles K. Verhoeven

Charles K. Verhoeven
Attorneys for WAYMO LLC